

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KAO LEE YANG, Individually, and obo,	§	CIVIL ACTION NO. 14:18-CV-161
S.V. & T.V., Minors	§	
	§	
v.	§	(ADMIRALTY)
	§	
TEICHMAN GROUP, LLC, T&T	§	
MARINE, INC., & EXPRESS	§	
PROFESSIONAL SERVICES, INC.	§	Hon. Lynn N. Hughes

DEFENDANTS TEICHMAN GROUP, LLC and T&T OFFSHORE INC.'S
MOTION TO ENJOIN FURTHER STATE COURT PROCEEDINGS

TO THE HONORABLE JUDGE LYNN N. HUGHES:

Defendants Teichman Group, LLC and T&T Offshore, Inc., misnamed in Plaintiff’s petition as “T&T Marine, Inc.” (collectively, the “T&T Defendants”), file this Motion to Enjoin further State Court Proceedings.

I. PROCEDURAL BACKGROUND

1. This case arises from the deaths of Chi Tai Vong and Blake Carlisle which occurred in a crane accident at T&T Offshore's facility in Galveston, Texas on September 20, 2017.

2. On September 22, 2017, Vong’s putative wife, Kao Lee Yang filed suit in the 164th District court of Harris County, individually and on behalf of her two minor children, against T&T Defendants, Express Professional Services, Inc., and OSG Lightering, LLC (the “*Yang Lawsuit*”).

3. On October 3, 2017, Carlisle’s putative father, Marcus Wilson (“Wilson”), filed a separate lawsuit against T&T Defendants in the 190th District Court of Harris County (the “*Wilson Lawsuit*”).

4. Both cases were removed to federal court with the *Yang* lawsuit being removed first and assigned to this Court and the *Wilson* lawsuit being assigned to Judge Rosenthal. Both actions were consolidated into this Court. [Doc. 19].

5. Attorney Anthony Buzbee is counsel for plaintiff's in both the *Yang* lawsuit and the *Wilson* lawsuit.

6. On January 23, 2018, four days following the removal of both the *Yang* and *Wilson* lawsuits, Yang and Wilson both filed yet a third lawsuit in state court (the "post removal suit"). Yang subsequently settled all claims with the T&T defendants. This Court approved the Yang settlement. Yang's counsel thereafter non- suited all claims against the T&T Defendants in the post removal suit but did not non- suit the Wilson claim.

7. Wilson filed a motion to remand which this court has denied. Yang then filed a motion to remand which is pending. In opposition to the Yang motion to remand, the T&T Defendants included a request to enjoin further state court proceedings. In support of that request, Defendants file this motion to enjoin.

II. ARGUMENT

8. Plaintiff Wilson is attempting to manipulate the forum of this matter. After the *Wilson* case was removed, Plaintiff filed an essentially identical suit in state court. This post removal lawsuit was nothing more than a flagrant attempt to deprive this Court of jurisdiction and was filed in violation of the stay imposed by 42 U.S.C. 1446(d). The T&T Defendants move the Court to enjoin the post removal suit filed by Wilson in state court as well as all further state court proceedings which Wilson may file against the T&T Defendants.

A. Plaintiff has engaged in improper forum manipulation through his actions post-removal.

9. It is within the federal court's authority to guard against improper forum

manipulation. On January 23, 2018, four days following the removal of both the *Yang* and *Wilson* lawsuits, Yang and Wilson both filed yet a third lawsuit in state court. This post removal suit, Cause No. 2018-04606, *Kao Lee Yang, individually and obo S.V. & T.V., minors, and Marcus Wilson v. W L Crane Repair, Inc., T&T Marine, Inc. & Express Professional Services*, was filed in the 61st District Court of Harris County, Texas. Ex. 1. Notably, “T&T Marine Inc.,” a company that does not exist, is a misnomer for T&T Offshore, Inc. T&T Offshore, Inc. is a party in both this removed case and in the post removal suit, Express Professional Services was originally a party but has subsequently been dismissed by Wilson. Wilson is the plaintiff, Anthony Buzbee is plaintiff’s counsel in all the cases and the claims in all cases are the same. The only difference in parties is the addition of WL Crane Repair, Inc., to the post removal suit. This is not material because WL Crane Repair, Inc. was a party to the T&T Defendants’ settlement with Yang and will likewise be a party to any settlement of Wilson’s claims asserted in the instant case. There is no doubt that the post removal suit was improperly filed to escape the jurisdiction of this Court, or to somehow improperly manipulate the forum in which the cases proceed. *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 357 (1988). Given Wilson’s immediate filing of the post removal state court action, the case for improper forum manipulation is clear.

B. The T&T Defendants move the Court to enjoin the post-removal state court case.

10. Here, despite removal of the originally filed state court cases to federal court, Plaintiff filed a post-removal case involving essentially the same parties, asserting the same causes of action, and relying on the same facts. “Where a district court finds that a second suit is an attempt to subvert the purposes of the removal statute, it is justified and authorized by § 1446(d) in enjoining the proceedings in state court.” *Frith v. Blazon-Flexible Flyer, Inc.*, 512

F.2d 899, 901 (5th Cir. 1975). Clearly, the post-removal state court case was an attempt to improperly manipulate the forum of this matter and the T&T Defendants move this Court to enjoin the post-removal case, as well as any other state court proceedings that may be filed against them by Wilson.

III. CONCLUSION

Accordingly, as the post-removal lawsuit remains pending as to Wilson's claims the T&T Defendants move the Court to issue an order enjoining the post removal Wilson state court suit and any further state court proceedings against T&T based on the accident at issue. The T&T Defendants also ask for any further legal or equitable relief to which they may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served upon counsel of record accordance with the Federal Rules of Civil Procedure, via e-service, facsimile and/or certified mail, return receipt requested to the following on the 29th day of March 2018:

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